

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD BAILEY,

Defendant-Appellant.

UNPUBLISHED

October 15, 2002

No. 232826

Wayne Circuit Court

LC No. 00-004099

Before: Murphy, P.J., and Markey and R. S. Gribbs*, JJ.

PER CURIAM.

Defendant appeals as of right his conviction, following a jury trial, of unarmed robbery, MCL 750.530. He was sentenced to a term of four to fifteen years' imprisonment. Defendant was acquitted on an additional charge of felonious assault, MCL 750.82. The sole issue on appeal is whether there was sufficient evidence concerning defendant's identity as the perpetrator to support the conviction.¹ We affirm.

This case arises out of the unarmed robbery of a seventy-seven year old woman on a sidewalk outside a drug store where the victim was attempting to pick up a prescription. An individual later identified as defendant grabbed the victim's purse, and the victim fell to the ground breaking her vertebrae after she tried to pull the purse back towards her body. The robber ran away with the purse, and Jason Williamson, who witnessed the conclusion of the robbery, gave chase; however, he stopped the chase after the robber turned and challenged Williamson with an unidentified object.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

¹ In defendant's appellate brief, he raises sentencing issues regarding errors in the presentence investigation report, in the calculation of jail time credit, and in the trial court's consideration of dismissed juvenile charges. However, defendant also presented these issues in a motion for remand, which was granted by this Court and resulted in defendant's resentencing. Unpublished order of the Court of Appeals, entered January 24, 2002 (Docket No. 232826). Therefore, the issues are moot for purposes of this opinion.

Defendant argues that the victim did not identify defendant as the robber, nor did she participate in a photographic lineup. Defendant further argues that Williamson identified defendant as the robber from a photographic lineup, but he was only seventy percent sure that defendant committed the robbery after reviewing the six pictures presented by the police. Additionally, the victim described the robber as being clean cut with short hair and no beard; however, Williamson described the robber as having shoulder length hair, being heavy set, and having a pimply face. Therefore, defendant concludes that the “unreliable identification testimony is insufficient as a matter of law to establish Mr. Bailey’s guilt beyond a reasonable doubt.” We disagree.

When ascertaining whether sufficient evidence was presented at trial to support a conviction, this Court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515-516; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). This Court will not interfere with the trier of fact’s role of determining the weight of the evidence or the credibility of witnesses. *Id.* at 514-515.

Defendant testified that, as of the date of the crime, he had long hair with the sides of his head shaved, a ponytail, sideburns, and acne, and that he was 17 years old and weighed 170 pounds. Defendant denied any involvement in the robbery.

The victim’s testimony was sketchy because the incident happened so fast, and she stated that the robber was white, a male, possibly wearing a hat, and looked clean shaven. She did not think that the robber had long hair, and that it appeared that he had short hair.

Williamson testified that he saw the victim on the ground and the robber running away with a purse. Williamson pursued the robber before the robber turned around and challenged Williamson with a shiny object, stating “what are you going to do?” Williamson opined that the entire event took about fifteen seconds. He also testified that he first saw the robber’s face when the robber turned to challenge him during the chase. Williamson asserted that the robber was about 5’11” and sort of pudgy. According to Williamson, the robber also had long greasy hair but no facial hair or ponytail, was dirty looking, had a pimply face, was twenty-five to thirty-five years old, and weighed maybe 200 pounds. Williamson did not believe that the robber had sideburns.

The police prepared a photographic line-up for Williamson on the day after the crime, and he identified defendant as the robber, stating that he was seventy percent sure that defendant was the perpetrator. Williamson testified that the police did not make any improper suggestions at the photographic lineup, and he stated that he would not have selected defendant if he were unsure that defendant was the robber. At trial, Williamson testified that he had a good look at the robber’s face, and he positively identified defendant in the courtroom as the robber.

Although there were discrepancies in the witnesses’ descriptions of the robber, along with some discrepancies between Williamson’s description and defendant’s actual features, viewing the evidence in a light most favorable to the prosecution, we choose not to disturb the jury’s verdict. Williamson’s eyewitness identification of defendant in the photographic lineup and at trial, made after a face to face confrontation with defendant, support a finding that a

rational trier of fact could find that the essential elements of unarmed robbery were proven beyond a reasonable doubt. Moreover, we will not interfere with the trier of fact's role of determining the weight and credibility of Williamson's testimony.

Affirmed.

/s/ William B. Murphy

/s/ Jane E. Markey

/s/ Roman S. Gibbs